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WILBUR-ELLIS COMPANY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DR. THOMAS YAMASHITA, an individual;
SUNBURST PLANT DISEASE CLINIC,
INC., a California Corporation,

Plaintiffs and Counter Defendants

v.

WILBUR ELLIS COMPANY, a California
Corporation; HUGHSON CHEMICAL
COMPANY, LLC, a California Limited
Liability Company,

Defendants and Counter Claimant.

Case No. C 06-01690 WHA

**STIPULATION AND ~~PROPOSED~~
ORDER TO FILE DECLARATION OF
ELIZABETH A. HOWARD IN SUPPORT
OF WILBUR-ELLIS COMPANY'S
REPLY TO PLAINTIFFS' OPPOSITION
TO WILBUR-ELLIS COMPANY'S
MOTION FOR AN ORDER
SHORTENING TIME [SIC: MOTIONS
FOR SANCTIONS AND TO STRIKE
PLAINTIFFS' MOTION TO STRIKE
DECLARATION OF DR. ARNOLD J.
BLOOM] AND EXHIBIT A THERETO
UNDER SEAL**

STIPULATION

1
2 1. Plaintiffs Dr. Thomas Yamashita and Sunburst Plant Disease Clinic, Inc.
3 (“Plaintiffs”) and Defendant Wilbur-Ellis Company (“Wilbur-Ellis”) (collectively the “Parties”)
4 submit this Stipulation, pursuant to Civil Local Rules 7-11 and 7-12, regarding Wilbur-Ellis’
5 Company’s Administrative Motion to file its Declaration of Elizabeth A. Howard in Support of
6 Wilbur-Ellis Company’s Reply to Plaintiffs’ Opposition to Wilbur-Ellis Company’s Motion For
7 An Order Shortening Time [sic: Motions for Sanctions and to Strike Plaintiffs’ Motion to Strike
8 Declaration Of Dr. Arnold J. Bloom] (“Declaration”) and Exhibit A thereto (“Exhibit A”) Under
9 Seal. The Parties ask the Court to approve the Stipulation.

10 2. Exhibit A contains documents, produced by Dr. Thomas Yamashita and
11 Sunburst Plant Disease Clinic, Inc., Bates labeled SUN 0041 – SUN 0194, and designated by
12 Plaintiffs as “Confidential Outside Attys’ Eyes Only,” pursuant to the Patent Local Rule 2-2,
13 thereby imposing a duty on the parties not to publicly disclose the contents of Exhibit A.

14 3. The Declaration contains information from Exhibit A, thereby imposing a
15 duty on the parties not to publicly disclose the contents of the Declaration.

16 4. Pursuant to General Order No. 45, X(B), the filer attests that she has
17 obtained the concurrence in the filing of this document from Micah R. Jacobs, attorney for
18 Plaintiffs.

19
20 NOW, THEREFORE, the Parties hereby AGREE AND STIPULATE and request
21 that the Court order that Declaration of Elizabeth A. Howard in Support of Wilbur-Ellis
22 Company’s Reply to Plaintiffs’ Opposition to Wilbur-Ellis Company’s Motion For An Order
23 Shortening Time [sic: Motions for Sanctions and to Strike Plaintiffs’ Motion to Strike Declaration
24 Of Dr. Arnold J. Bloom] and Exhibit A thereto be filed under seal.

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

Dated: May 8, 2006

By: _____/s/
Diana Rutowski
Attorneys for Defendant and Counter Claimant
Wilbur-Ellis Company

Dated: May 8, 2006

By: _____/s/
Micah R. Jacobs
Attorneys for Plaintiffs and Counter Defendants
Dr. Thomas Yamashita and Sunburst Plant Disease
Clinic, Inc.

PROPOSED ORDER

The Declaration of Elizabeth A. Howard in Support of Wilbur-Ellis Company's Reply to Plaintiffs' Opposition to Wilbur-Ellis Company's Motion For An Order Shortening Time [sic: Motions for Sanctions and to Strike Plaintiffs' Motion to Strike Declaration Of Dr. Arnold J. Bloom] ("Declaration") and Exhibit A thereto shall be filed under seal.

PURSUANT TO THE STIPULATION, IT IS SO ORDERED.

Dated: May 9, 2006



Honorable William Alsup
United States District Court Judge